



King County Board of Ethics  
900 Fourth Avenue, Suite 860  
Bank of California Building  
Seattle, WA 98164 MS BOC-ES-0860  
(206) 296-1586 FAX (206) 205-0725  
board.ethics@metrokc.gov

www.metrokc.gov/ethics/

## KING COUNTY BOARD OF ETHICS MEETING NOTICE

**When:** Monday, December 16, 2002, at 4:30 p.m.

**Where:** Bank of California Building  
900 Fourth Avenue, 4<sup>th</sup> Avenue and Marion Street, Seattle  
5<sup>th</sup> floor conference room, northwest corner of building

### AGENDA

1. **Approval of Agenda**
2. **Approval of Meeting Minutes of November 18, 2002.**
3. **Letter to Ethics Chair from Former Ombudsman.** Review and discussion.
4. **Solid Waste Advisory Commission.** Board review and discussion.
  - Response from ethics board to request for opinion by Solid Waste Division.
  - Statements of Financial and Other Interests Filed by the SWAC Members.
  - Letter from SWAC Vice-Chair On Conflict of Interest Issues.
5. **Request for Review by the Solid Waste Division On Procedures to Prevent Conflict of Interest.** Board discussion and review.
6. **Meetings in 2003.** Regular meeting and retreat dates.
7. **Meeting with Executive.** Report by Chair
  - Confirmation by council of Margaret Gordon, Ph.D.
8. **Staff Report.**
  - 2002 Washington State Ethics Conference
  - National Symposium on Corporate Responsibility: Compliance and Ethics Programs
  - Staff Informational Responses
  - Office move
  - Ethics legislation—update
  - Letter from Carl Anderson—information only

Upon advance request, reasonable accommodations for people with disabilities  
are available by calling (206) 296-1586 or 771 TTY

**ALTERNATE FORMATS AVAILABLE**



King County Board of Ethics  
900 Fourth Avenue, Suite 860  
Bank of California Building  
Seattle, WA 98164 MS BOC-ES-0860  
(206) 296-1586 FAX (206) 205-0725  
board.ethics@metrokc.gov  
www.metrokc.gov/ethics/

## **Minutes of the December 16, 2002, Meeting of the King County Board of Ethics**

The December 16, 2002, meeting of the King County Board of Ethics was called to order by Chair Price Spratlen at 4:30 p.m. Board members in attendance were:

Lois Price Spratlen, Ph.D., Chair  
Mr. Roland H. Carlson  
Margaret T. Gordon, Ph.D.  
Rev. Paul F. Pruitt

Others in attendance:

Ms. Amy Calderwood, Interim Ombudsman, Office of Citizen Complaints—Ombudsman  
Ms. Diane Yates, Program Analyst and Staff Liaison to the Solid Waste Advisory Commission, Solid Waste Division, Department of Natural Resources and Parks  
Mr. John B. Bell, Operations Manager, Solid Waste Division, Department of Natural Resources and Parks  
Ms. Catherine A. Clemens, Administrator, King County Board of Ethics  
Ms. Caroline Whalen, Deputy County Administrative Officer, Department of Executive Services  
Ms. Cheryl Carlson, Senior Deputy Prosecuting Attorney and Board Counsel

1. *Approval of Agenda.* Dr. Gordon moved and Mr. Carlson seconded that the board approve the proposed agenda.

Chair Price Spratlen asked for introductions from those present.

Ms. Carlson arrived at 4:33 p.m.

2. *Approval of Meeting Minutes of November 18, 2002.* With minor corrections, Dr. Gordon moved and Mr. Carlson seconded that the board approve the November 18, 2002, meeting minutes. The board unanimously adopted the motion and the minutes were approved.

Mr. Bell arrived at 4:41 p.m.; Rev. Pruitt arrived at 4:42 p.m.

3. *Letter to Ethics Chair from Former Ombudsman.* Ms. Clemens drew the board's attention to the letter from the former ombudsman to the ethics board chair; the former ombudsman had also sent copies of the letter to the executive and county council membership. The letter recommended that the ethics board take the lead in one or all of the following areas: 1) change the ethics code [K.C.C. 3.04] to allow for complaint dismissal for certain reasons, and to increase independence of the Office of Citizen Complaints--Ombudsman (OCC); 2) change the 'ombudsman's code' [K.C.C. 2.52] for similar reasons; and 3) create an independent ethics oversight board made up of elected officials and citizens. Ms. Calderwood stated that this letter does not reflect the current OCC orientation. The OCC does not wish to investigate the motivation of the complainant, but wishes to focus on the alleged violation. Mr. Carlson stated that the courts may dismiss suits if the issues are found

to be frivolous and expressed his opinion that the idea is a good one. Ms. Calderwood agreed that, in some cases, a person may file a complaint when angry, but currently those complaints may be dismissed within twenty (20) days. She stated she felt comfortable with the current structure, although a de minimus standard could be added to the code. Upon a question from Dr. Gordon, Ms. Calderwood clarified the differences in the complaint process between the ethics code and ombudsman code; the latter code investigates administrative acts within executive branch agencies, including personnel issues, treatment of prisoners, etc. Dr. Gordon noted that the former ombudsman was suggesting a parallel wording in K.C.C. 3.04; Mr. Carlson agreed stating that the move could save time and be more efficient.

Upon a question from the chair, Ms. Calderwood stated that she has worked in the OCC for fourteen (14) years. Her assessment of the four (4) recommendations are: 1) that it may be wise to dismiss complaints because they are frivolous or meet de minimus standards, but that the alleged violation should be investigated, not the complainant; 2) that there may be a perception of conflict when the OCC investigates complaints against council members since they have budget and hiring authority over the OCC. However, her experience and the record do not show this to be true. In addition, the OCC reports to the council as a whole, and therefore one member may not unduly influence an outcome. In addition, it may be appropriate to look at another oversight board, similar to the Washington State Legislative Ethics Board, but councilmembers would still sit on the oversight board using that model. Mr. Carlson stated that given the choice between rewriting the code and creating a new commission, the rewrite would be easiest. Dr. Price Spratlen suggested that the board invite the former ombudsman for a full discussion and before any decisions are made.

Ms. Calderwood stated that should the board take the lead to change the OCC code to increase independence from the council, it would be unlikely that the council or the OCC would approve or support such a move. And regardless of those changes, the council would still have hiring and budget authority over the OCC. Ms. Carlson noted that the letter's suggested wording to 'require the Prosecuting Attorney to appoint a Special Prosecuting Attorney upon the request of the ombudsman' would likely be overstepping the ombudsman's bounds. Ms. Calderwood noted that the OCC is appointed special counsel only when the OCC investigates ethics complaints against councilmembers or the executive.

Mr. Carlson moved that the board take no action at this time, but defer the matter until the former ombudsman is able to attend a meeting and speak directly to the matters he raised in the letter; Dr. Gordon seconded and the board unanimously approved the motion. Chair Price Spratlen directed the administrator to invite the former ombudsman to a future meeting in order to more fully discuss his recommendations, including the definition of 'frivolous complaints.' Chair Price Spratlen thanked Ms. Calderwood for her attendance and invited her to attend any and all future meetings of the board.

Ms. Calderwood left the meeting at 5:15 p.m.

4. *Solid Waste Advisory Commission.* Ms. Clemens briefed the board, and drew its attention to the letter of response from the ethics board to the Solid Waste Divisions (SWD) on its request for advisory opinion during November's meeting. The board had deferred discussion on the Statements of Financial and Other Interests for two SWAC members who work for industries holding county contracts; such contracts are subject to SWAC review. The board determined that it would assume the two individuals who failed to accurately complete the forms were unaware of the exact requirement. However the board agreed that in the future, all SWAC members must receive adequate education and guidance and be informed by SWD staff of the disclosure requirement. In addition, SWAC staff should review disclosure forms for completeness prior to filing with the ethics office.

The board then reviewed the letter from the SWAC vice-chair on conflict of interest issues. Dr. Gordon voiced concern over the vice-chair's statement that 'members who cannot represent their views in public to the advisory board instead present it to appointed elected officials behind closed doors.' Mr. Carlson stated that the SWAC is no different from any

other board in that potential conflict should be disclosed and appropriate steps taken, such as the protocol created by the SWD. Rev. Pruitt stated that there can never be a completely pure process since there will always be a tension between people with expertise sitting on boards and commission dealing with matters in which they have an interest. However, the county must take steps to address this tension through corrective protocols. Ms. Yates stated that anyone on a board may go to the executive or council member regardless of their role. The SWAC members are not prevented from making statements at meetings, only from participating in matters directly related to their employers' contracts. Mr. Carlson stated it is procurements job to keep competition open and fair and will not be able to do that if steps similar to those taken by SWD are not implemented. Following further discussion, the board determined to take no action on the matter.

*5. Request for Review by the Solid Way Division on Procedures to Present Conflict of Interest..* Ms. Clemens briefed the board. The Operations Manager of the Solid Waste Division (SWD) asks the Board of Ethics to review SWD reassignment procedures designed to prevent a conflict of interest for SWD employees based on nepotism. Following this review, the SWD asks the board to issue a finding as to whether the procedures sufficiently remove the conflict of interest, and if the procedures comply with county policy found in King County Code 3.12.020, Personnel Guidelines, Article 12.7 and ethics board advisory opinion 1133. Based on the operations manager's information, a supervisor found himself now supervising his new son-in-law due to a recent marriage. SWD management reviewed the reporting hierarchy and determined that the supervisor must recuse himself from such supervision and re-assigned those responsibilities to a peer supervisor. In the absence of the peer supervisor, supervisory responsibilities fall to another supervisor other than the father-in-law. These responsibilities include assignment, promotion, discipline or other change in work circumstances. The former supervisor (the father-in-law) will continue to provide logistic and other routine support to the general operation; those tasks include providing supplies to the station and responding to standard operations questions. SWD management reviewed county policies and laws, including K.C.C. 3.04 (Employee Code of Ethics) and Advisory Opinion 1133. In addition, management sought legal counsel from the prosecuting attorney assigned to their division. Legal counsel reviewed the matter and agreed that the procedures designed by the SWD 'meets the spirit and intent of county policy.'

During its deliberations, the board reviewed relevant portions of K.C.C. 3.04, King County Employee Code of Ethics, including: 1) the policy of no actual or apparent conflict of interest between the public trust and private interest [K.C.C. 3.04.015]; enforcement by county agencies of the code's requirements by seeking appropriate assistance from the office of citizen complaints, the board of ethics and the prosecuting attorney [K.C.C. 3.04.015]; the board's authority to render advisory opinions whenever requested by a county officer or employee [K.C.C. 3.04.100]; and the duty of employees to notify in writing his or her supervisor or appointing authority of potential conflicts and the duty of supervisors to respond and take action to resolve the potential conflict of interest, [K.C.C. 3.04.037.] In addition, the board reviewed past advisory opinions 1133 (Dec 1995) and 1156 (Oct 1997) in which the board generally opined that nepotism is in fact a conflict of interest based on familial relationship or domestic partnership and that nepotism occurs whenever a county employee participates, directly or indirectly, in a county action that affects the interests of a close relative or domestic partner. Such actions include employment decisions relating to hiring, appointment, reappointment, classification, reclassification, evaluation, promotion, transfer, discipline, supervision, or pay increases.

Chair Price Spratlen noted that, in this particular case, the SWD protocols prevented reporting and employment decisions by one family member or another and it was apparent SWD had taken appropriate steps. She expressed the board's appreciation for SWD's review of past advisory opinions and for seeking advice from appropriate resources. She noted the board's role is to provide such information through advisory opinions to guide county agencies in good decision-making. Ms. Carlson noted that the reporting relationship

for the daughter of the new father-in-law had not been addressed. Mr. Bell stated that no supervisory relationship existed in that case and therefore it was not at issue.

Following additional discussion, Mr. Carlson moved that, based on the code of ethics, past advisory opinions and the information provided in this specific instance, the Board of Ethics finds the procedures created by SWD to prevent conflict of interest based on nepotism among SWD employees removes the conflict of interest. Such procedures reassign supervisory responsibilities, including employment decisions relating to hiring, appointment, reappointment, classification, reclassification, evaluation, promotion, transfer, discipline, supervision, or pay increases, of one family member over another to an unrelated supervisor. Rev. Pruitt seconded the motion and the board unanimously approved the motion.

The chair thanked Mr. Bell for attending the meeting. In addition, she directed the administrator to communicate with Mr. Bell in writing the board's determination on the matter.

Ms. Yates and Mr. Bell left the meeting at 5:45 p.m.

6. *Meetings in 2003.* The board reviewed the meeting schedule for 2003. It decided to hold its annual, half-day retreat on Saturday, January 11, 2003, and to cancel its regularly scheduled meeting on January 21, 2003. Otherwise, all other regularly scheduled meeting dates were approved, pending changes during the year.

7. *Meeting with Executive.* The chair reported on the meeting held earlier on this date with the executive. Attendees included the executive, the chair, member Margo Gordon, and Deputy CAO Caroline Whalen. She stated the meeting was successful and all discussion items, including a fifth board appointment, a thank you for support of the financial disclosure program; a thank you for making ethics training for new employees and supervisors mandatory and a review of the 2003 Washington State Ethics Conference. Dr. Gordon noted that the executive is pleased with the work of the ethics board and the accessibility of the ethics office on ethics-related questions.

8. *Staff Report. 2002 Washington State Ethics Conference.* The administrator thanked all board members for their attendance and support of the December 3<sup>rd</sup> conference of which the ethics office was one of six sponsoring agencies. The event was a success, attended by over 170 government employees, board and commission members, attorneys and those interested in the topic of ethics—the highest attendance of the three conferences held to date. Attendees rated the overall conference a 4 with the highest rating a 5. Rev. Pruitt voiced his approval of the administrator's central role in the conference and noted he had attended the session in which she was a featured presenter. National Symposium on Corporate Responsibility: Compliance and Ethics Programs. The administrator reported her attendance at this conference held on the Microsoft campus on November 21 - 22 and attended by private, non-profit and governmental agencies throughout the county. Topics included enforcement trends, reforms, and compliance programs. Ms. Clemens stated her belief that it is valuable for the county to learn of new and different ways to manage ethics programs and beneficial for the county to be a visible participant in ethics discussions. Materials from the conference were made available at the meeting. Staff Information Responses. The administrator referred the board to copies of ten staff informational responses issued by the administrator between October 22 and November 26. Ethics related topics included: potential board member conflict; outside financial interests in publishing related to county work; hiring contractors; use of county property—guidelines; attendance of celebration for contract completion; potential conflict of interest regarding outside employment; use of county property—HUM messaging system; employee contracting with other department; potential conflict of interest with official duties; and acceptance of gift offer from contractor. Office Move. The ethics office will move on December 23 and co-locate with the King County Prosecuting Attorney's Office, Family Support Division, on the 9<sup>th</sup> floor of the Bank of California Building. The office space is comparable in size with adjacent work space for temporary help; board meetings will

continue to be held in the 5<sup>th</sup> floor conference room. Costs associated with the move will be charged to the ethics office budget. Ethics Legislation. Executive staff contacted the ethics administrator in mid-December with questions regarding the proposed amendment to the post-employment provision of the code of ethics. Following discussion, the administrator encouraged a meeting between executive staff and board administrator and counsel to ensure the executive's understanding is clear and complete. Letter from Carl Anderson. The administrator drew the board's attention to a letter dated November 12, 2002, from Mr. Carl Anderson, a county employee who previously requested an advisory opinion from the board. The letter is included for information only and requires no response.

Mr. Carlson moved and Dr. Gordon seconded a motion to adjourn the meeting. The board unanimously approved the motion and the meeting was adjourned at 6:10 p.m.

Approved this 20th day of February, 2003, by the King County Board of Ethics.

Signed for the Board: \_\_\_\_\_  
Mr. Roland H. Carlson, Acting Chair